

**AUTHORITY FOR ADVANCE RULING, TAMIL NADU
NO.206, 2ND FLOOR, PAPJM BUILDING , NO.1 , GREAMS ROAD,
CHENNAI -600 006.**

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017 AND UNDER
SECTION 98(4) OF THE TNGST ACT, 2017.**

Members present:

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| Smt. D. Jayapriya, I.R.S., Additional Commissioner / Member, Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -600 034. | Smt. N. Usha, Joint Commissioner (ST)/ Member, Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-600 006. |
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Advance Ruling No. 105 /AAR/2023 Dated: 05.09.2023

1. Any appeal against this Advance Ruling order shall lie before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-Section (1) of Section 100 of CGST Act 2017/ TNGST Act 2017, within 30 days from the date on the ruling sought to be appealed, is communicated.
2. In terms of Section 103(1) of the Act, Advance Ruling pronounced by the Authority under Chapter XVII of the Act shall be binding only-
 - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of Section 97 for advance ruling.
 - (b) on the concerned officer or the jurisdictional officer in respect of the applicant.
3. In terms of Section 103(2) of the Act, this advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.
4. Advance Ruling obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts, shall render such ruling to be void ab initio in accordance with Section 104 of the Act.
5. The provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act (herein referred to as an Act) are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

| | | |
|--|------------------------|---|
| GSTIN Number, if any / User id | | 33AACCL1446J1ZP |
| Legal Name of Applicant | | M/s. Lion Seat Cushions Private Limited |
| Registered Address / Address provided while obtaining user id | | D.No.130/1, Saradha College Road, Salem - 636016 |
| Details of Application | | GST ARA – 01 Application Sl.No.35/2022 dated 17.06.2022. |
| Jurisdictional Officer | | State: Alagapuram Assessment Circle, Salem Division. |
| Concerned Officer | | Centre : Salem Commissionerate |
| Nature of activity(s) (proposed / present) in respect of which advance ruling sought for | | |
| A | Category | Manufacturer |
| B | Description (in brief) | Appropriate rate of tax to be collected for two wheeler seat covers manufactured by the Applicant. |
| Issue/s on which advance ruling required | | (i) Classification of goods and/or services or both |
| Question(s) on which advance ruling is required | | Whether the GST rate of 28% collected and paid for Bike and Scooter seat cover by the Applicant is correct. |

M/s. Lion Seat Cushions Private Limited, D.No.130/1, Saradha College Road, Salem (hereinafter called as the 'Applicant') is registered under the GST Acts with GSTIN: 33AACCL1446J1ZP.

2. The Applicant is a manufacturer of Two Wheeler seat covers for Bikes and Scooters. The Applicant has sought for Advance Ruling regarding tax rate on the goods manufactured by them i.e. whether the GST rate of 28% collected and paid for two wheeler seat covers for Bikes and Scooters under HSN code 87089900 is correct.

2.1. The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST Rules 2017 and SGST Rules 2017.

3. In the statement of facts, the Applicant has stated that, they were collecting 28% GST under HSN 8708 99 00 for Bike and Scooter seat covers which are

manufactured by them, whereas other similar manufacturers collect 18% under HSN code 9401 2000 or 5% under HSN code 87149990. The customers who are buying the said two wheeler seat covers from the Applicant are resisting from paying 28% charged by them referring to the other dealers who are charging lower rate on the same product. Hence they have requested for Advance ruling regarding correct tax rate for the goods manufactured by them i.e whether the rate of 28% collected and paid by them for two wheeler seat covers for Bikes and Scooters under HSN code 87089900 is correct and if not correct, the appropriate tax to be collected for two wheeler seat covers.

4.1 The Applicant is under the administrative control of State Tax. The said jurisdictional authority has submitted the following remarks;

- According to the tax payers declared description, they are manufacturing Two Wheeler Seat Covers for Bikes and Scooters. In the said manufacturing process, the "U" foam purchased from other dealers are cut to the shape of two wheeler seat along with rexine sheets and stitched, and the said "Seat Covers" are fitted into Two Wheelers like Bike and Scooter. No service had been provided by the dealers and the entire collection and payment of taxes are under the category of "Manufacturing and selling of goods".
- A close scrutiny of the sale invoices raised by the tax payer shows that they are manufacturing and selling seat cover to various variant of Hero Motor Cycles which cannot be used for other motor cycles, as the same is manufactured and sold as per the specifications of requirement of the Hero Motors cycles and made to fit to the exact requirement. Now it has to be decided that the sale of seat covers falls under HSN code 9401 2000 or 87089900 or otherwise.
- When the entry found in HSN code 9401 2000 categorically specifies the seats of kind of Motors cycles. Now the other question arises whether the seat cover falls under the category or not. Definitely the seat and seat covers are not one and the same and also it has to be decided whether seat cover is a part or accessory. The seat covers are meant for the protection of the seats and the functional value of seat cover is the comfort and convenience it extends to the rider and pillion rider. Thus the seat cover is nothing but an accessory that enhances the functional value and that the seat covers falls under HSN 8714 99 90 and the seat cover which being an accessory to

Motor cycle is liable to GST at 28% (CGST at 14% and SGST at 14%) under the chapter/heading/sub-heading/Tariff 8711 and 8714.

- No proceedings are pending for adjudication in the applicant's case relating to the question raised in the application for advance ruling.

4.2. The concerned Central Tax Officer has submitted comments as under:

- No proceedings are pending for adjudication in the applicant's case relating to the question raised in the application for advance ruling.
- The Applicant has classified their product i.e. Seat Cover under HSN 87089900. As per HSN the description of for this chapter heading is as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|--|
| 8708 | Parts and accessories of the motor vehicles of headings 8701 to 8705 |
| 87089900 | Other parts and accessories |

- Whereas the Applicant's competitors have adopted HSN 9401 for seat covers, for which the HSN description is as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|---|
| 9401 | Seats (other than those of heading 9402) whether or not convertible into beds, and parts thereof (other than seats of a kind used for aircraft) |

- Also the other classification used by their competitor is 87149990 for which description is as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|--|
| 87149990 | Parts and Accessories of Vehicles of Heading 8711 to 8713 Other' |

- Where HSN Nomenclature for Heading 8711 to 8713 is as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|---|
| 8711 | Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; |
| 8712 | Bicycles And Other Cycles (Including Delivery Tricycles), Not motorised |
| 8713 | Carriages for disabled Persons, Whether or not motorised or Otherwise Mechanically Propelled (excluding specially designed motor vehicles and bicycles) |

➤ The Central Tax Officer thereby concluded that the classification of seat cover for motorcycles falls under HSN 87149990 and attracts applicable rate.

5. The Applicant, after consent, was given an opportunity to be virtually heard on 16.08.2023, wherein Shri.Arumugam, Applicant, appeared for the hearing and reiterated the submissions made in the application. He further stated that, the seat covers are only extra fittings for the bike and not a main component/accessory and that presently they are adopting HSN 94012000 and paying GST @18%. He stated that previously they were paying GST @ 28 % for the same commodity under HSN 8708 whereas their competitors were adopting either 5% or 18% under HSN code 87149990 or 94012000 respectively for the same commodity and hence the Applicant were unable to compete in the market and therefore requested for correct HSN and rate of tax for their commodity. Further, the Applicant also submitted copies of sample invoices as well as photographs of their product viz. seat covers.

DISCUSSIONS AND FINDINGS

6.1 We have carefully examined the statement of facts and submissions made by the Applicant during personal hearing and the comments of the Central and State Jurisdictional Authorities.

6.2 As per the submissions made, we find that the Applicant is manufacturing Two Wheeler seat covers for Bikes and Scooters using Foam and Rexine and supplying it to automobile dealers @ 18% GST (HSN: 9401 2000), at present. The Applicant also stated that previously they were paying tax @ 28 % for the same

commodity under HSN 8708, whereas the other manufacturers in the same trade were paying tax @ 18% under the HSN 9401 2000. Therefore, the Applicant is before us seeking ruling on the correct rate of tax for the commodity i.e. Two Wheeler seat covers.

6.3. From the submissions made by the Applicant, we observe that three different headings are being adopted by tax payers or their competitors, for the supply of Two Wheeler seat covers. The Applicant was adopting HSN 8708 99 00 collecting GST @ 28%, and their competitors were adopting HSN 94012000 collecting GST @18% or 87149990 collecting GST @ 5%, for the same product i.e. Bike and Scooter seat covers. The correctness of the adoption of the said headings and the GST rate is examined. The aforesaid three Chapter Headings, as appearing in the Customs Tariff Act, 1975, is as under;

I) The heading 8708 falls under Section XVII of HSN under the title 'Parts and accessories of Motor vehicles of Heading 8701 to 8705'. Motor Vehicles which are covered under the headings 8701 to 8705 are described as under;

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|--|
| 8701 | Tractors (other than Tractors of Heading 8709) |
| 8702 | Motor Vehicles for transport of ten or more persons including driver |
| 8703 | Motor Cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars |
| 8704 | Motor vehicles for transport of goods |
| 8705 | Special purpose motor vehicles |

The above CTH i.e. 8701 to 8705 covers Motor Vehicles such as Tractors, Motor cars, etc. and not two wheelers. A plain reading of the above table makes it clear that CTH 8708 - 'Parts and accessories of Motor vehicles of Heading 8701 to 8705' is not applicable to the goods dealt with by the Applicant, as their product is seat covers for Two Wheeler which are not parts and accessories of

Motor Vehicles falling under headings 8701 to 8705, listed supra. Hence, the CTH 8708 is ruled out.

II) The next entry adopted is CTH 9401, which falls under the Section XX of HSN i.e. 'Miscellaneous Manufactured Articles', relevant portion of which is reproduced as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|---|
| 9401 | Seats (other than those of heading 9402), whether or not convertible into beds, and parts thereof |
| 9401 20 | Seats of a kind used for motor vehicles |

The above heading 940120 covers "Seats for motor vehicles", whereas the Applicant is not manufacturing 'Seats' as such but only a seat cover which is fitted over the seat already factory fitted in a two wheeler. Thus the product manufactured by the Applicant is not covered under 940120.

III) The third chapter heading adopted is 87149990 and GST @5% is collected by some of their competitors. Under the broader heading of CTH 8714, tax rate of 5% is granted to CTH 871420, which refers to 'Parts and accessories of carriages for disabled persons' vide Notification No.24/2018- CT(Rate) dt.31.12.2018, which is the amendment notification to Notification No.01/2017-CT(Rate) dated 28.06.2017, w.e.f. 01.01.2019. Further, the description of the CTH 87149990 and the GST tax rate to be adopted for the said CTH is elaborated in the ensuing paragraphs.

6.4. From the above discussion, it is clear that the commodity manufactured by the Applicant i.e., Two Wheeler seat cover does not merit classification either under CTH 8708 or 9401 and if the Seat covers are cleared under CTH 87149990 the GST applicable is not 5% as collected by some of the tax payers.

6.5. We proceed to examine the correct classification of the product, i.e. Seat covers for two wheelers, manufactured by the Applicant and the correct rate of tax to be adopted. We find that the Applicant has submitted copies of sample invoices as well

as photographs of their product viz seat covers. On perusal of the photographs, it is seen that the Applicant is making seat covers of different variants and types, designed to fit the seat of Hero Honda Motorcycles. The seat covers are to be mounted on the existing seat in the two wheelers.

6.6 Further, on verification of the sample invoices submitted by the Applicant, it is revealed that the Applicant has cleared such seat covers to Automobile dealers in the month of March 2022 adopting GST @ 28% GST (14% CGST + 14% SGST) and in the month of April 2022 adopting GST @ 18% (9% CGST + 9% SGST). It is also noticed that in all the invoices, whether the rate adopted was 28% or 18%, the HSN mentioned is 94012000.

6.7. Based on the examination of documents submitted by the Applicant, it is clear that they are making seat covers fit to be mounted on the existing seat of the Two Wheelers specifically Hero Honda Motorcycles. These seat covers are meant for the protection of the seats and the functional value of seat cover is the comfort and convenience it extends to the rider and pillion rider. Thus the seat cover is nothing but an accessory, which is generally bought by the customer for protection and comfort purpose. The features of the seat cover are distinct and clearly distinguishable from seat.

6.8. From the above, we find that seat covers are accessories to Two Wheelers. Chapter 87 covers 'Vehicles other than railway or tramway rolling stock, and Parts and accessories thereof', under which parts and accessories of two wheelers specifically find place under 8714, which is given as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|---|
| 8714 | Parts and Accessories of Vehicles of Headings 8711 to 8713 |
| 8714 99 | Other |
| 8714 99 10 | Bicycle chains |
| 8714 99 20 | Bicycle wheels |
| 8714 99 90 | Other |

The headings CTH 8711 and 8713, are described as under:

| Chapter/ Heading/ Tariff Item | Description of Goods |
|----------------------------------|--|
| 8711 | Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; |
| 8712 | Bicycles and other cycles (including delivery tricycles), not motorized; |
| 8713 | Carriages for disabled persons, whether or not motorised or otherwise, which is reproduced as under: |

6.7 Thus, we find that Motorcycles are classified under CTH 8711 and on the seats of such Motorcycles, the seat covers are fitted. Hence, these seat covers are nothing but part and accessories of Motor cycles and fall under CTH 8714, and more specifically under CTH 87149990.

6.8. In order to determine the rate on the goods manufactured by the Applicant, it is imperative to refer to Notification No. 1/2017- CT(Rate), dated 28.6.2017. We find that goods falling under the heading 8714, where the description is 'Parts and accessories of vehicles of heading 8711 and 8713' are liable to tax @ 28% vide entry Sl.No.174 of Schedule IV of the said Notification, which is extracted as under:

| Sl. No | Chapter/ Heading/ Tariff Item | Description of Goods | Rate of tax |
|--------|----------------------------------|--|----------------|
| 174 | 8714 | Parts and accessories of vehicles of heading 8711 and 8713 | 14% |

The Notification No. 1/2017- CT(Rate), dated 28.6.2017 was amended vide Notification No.24/2018- CT(Rate) dt.31.12.2018, effective from 01.01.2019, and Parts and accessories of vehicles of heading 8711 continued to attract tax @28% even after the amendment. The relevant entry is extracted as under:

| Sl. No | Chapter/ Heading/ | Description of Goods | Rate of |
|--------|-------------------|----------------------|---------|
|--------|-------------------|----------------------|---------|


| | Tariff Item | | tax |
|-----|-------------|--|-----|
| 174 | 8714 | Parts and accessories of vehicles of heading 8711 | 14% |

6.9. Based on the above discussions, we find that the Two wheeler seat covers are specifically covered under CTH 87149990 and are taxable @ 14% CGST + 14% SGST vide entry no. 174 of Schedule IV of Notification No. 1/2017- CT(Rate), dated 28.6.2017, as amended.


7. In view of the above, we rule as under:

RULING

Two wheeler seat covers merit classification under the CTH 87149990 and are taxable @ 14% CGST + 14% SGST vide entry no. 174 of Schedule IV of Notification No. 1/2017- CT (Rate), dated 28.6.2017, as amended.


(N. USHA) 5.9.2023
Member (SGST)




(D. JAYAPRIYA) 05/09/2023
Member (CGST)

To

M/s. Lion Seat Cushions Private Limited
D.No.130/1, Saradha College Road, Salem - 636016

//BY RPAD//

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Principal Secretary/Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

1. The Commissioner of GST & Central Excise,
Salem Commissionerate, GST Bhawan, No.1, Foulks Road,
Anaimedu, Salem- 636.
2. The Assistant Commissioner(ST),
Alagapuram Circle, Salem Division.
3. Master File/ Spare – 2.